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CERTIFICATE OF EXPRESS MAILING

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Signed: Mary McCauley

Mary A. McCauley

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	
Edwin J. Hall, et al.	Group Art Unit: 2171
Application No.: 09/819,063	Examiner: Wayne P. Amsbury
Filed: September 26, 2000	
For: TECHNIQUES FOR DEFINING, USING AND MANIPULATING RIGHTS MANAGEMENT DATA STRUCTURES	Confirmation No. 9052

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

FINAL UPDATED NOTICE REGARDING RELATED LITIGATION

Applicants submit this Final Updated Notice to inform the Examiner of the status of the litigation between InterTrust and Microsoft, captioned InterTrust Technology Corp. v. Microsoft Corp. (C 01-1640 SBA, N. D. Ca.). This paper is entitled "Final Notice" because this litigation has been dismissed with prejudice following settlement of the dispute.

Pursuant to 37 C.F.R. §§ 1.56 and 1.97(b), Applicants submit this paper to bring to the attention of the Examiner the information herein. Under the provisions of 37

C.F.R. § 1.97(b), this paper is being filed before the mailing date of a first Office action after the filing of a Request for Continued Examination in this application.

Applicants hereby bring to the attention of the Examiner the following information and provide copies of the referenced documents for the Examiner's consideration. On February 23, 2004, Microsoft filed a Notice of Motion and Memorandum in Support of Motion for Partial Summary Judgment of Invalidity of the Asserted Claims of the '900 Patent (Anticipation). *See* Exhibit 1. On February 23, 2004, Microsoft also filed a Notice of Motion, Motion and Memorandum in Support of it's Motion for Partial Summary Judgment of Invalidity of the Asserted Claims of the '181 Patent (Anticipation). *See* Exhibit 2.

The parties subsequently settled and, on May 5, 2004, filed a Joint Stipulation of Dismissal with Prejudice. *See* Exhibit 3. Exhibit 4 is a copy of the press release announcing the settlement and indicating that Microsoft has taken a comprehensive license to InterTrust's patent portfolio for a one-time payment of $440 million. *See* Exhibit 4.

Applicants note that they have not provided the Office with the exhibits referred to in Exhibits 1 and 2 because they are either (a) publicly available and not necessary to understand the motion, or (b) contain Microsoft's Attorneys-Eyes-Only information that we cannot disclose. If, however, the Examiner believes that any document not yet submitted may be helpful in resolving an issue before him and would like to review that or any other document, Applicants invite the Examiner to contact the undersigned at (650) 849-6643.

Applicants submit this Final Updated Notice Regarding Related Litigation in fulfillment of their duty to disclose information potentially material to patentability under 37 CFR 1.56. This submission does not constitute an admission that any of the listed documents are material or constitute "prior art."

If there are any fees due with the filing of this Notice which have not yet been paid, please charge the fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: July 2, 2004

By: _____
Andrew B. Schwaab
Reg. No. 38,611

Finnegan Henderson Farabow
Garrett & Dunner L.L.P.
1300 I Street, NW
Washington, D.C. 20005
(202) 408-4000

WILLIAM L. ANTHONY (State Bar No. 106908)
ERIC L. WESENBERG (State Bar No. 139696)
HEIDI L. KEEFE (State Bar No 178960)
KENNETH J. HALPERN (State Bar No. 187663)
SAM O'ROURKE (State Bar No. 205233)
ORRICK, HERRINGTON & SUTCLIFFE, LLP
1000 Marsh Road
Menlo Park, CA 94025
Telephone: (650) 614-7400
Facsimile: (650) 614-7401

STEVEN ALEXANDER (admitted Pro Hac Vice)
KRISTIN L. CLEVELAND (admitted Pro Hac Vice)
JAMES E. GERINGER (admitted Pro Hac Vice)
JOHN D. VANDENBERG
KLARQUIST SPARKMAN, LLP
One World Trade Center, Suite 1600
121 S.W. Salmon Street
Portland, OR 97204
Telephone: (503) 226-7391
Facsimile: (503) 228-9446

Attorneys for Defendant and Counterclaimant,
MICROSOFT CORPORATION

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

OAKLAND DIVISION

INTERTRUST TECHNOLOGIES CORPORATION, a Delaware corporation,

Plaintiff,

v.

MICROSOFT CORPORATION, a Washington corporation,

Defendant.

AND RELATED CROSS-ACTION.

CASE NO. C01-1640 SBA (MEJ)

Consolidated with C 02-0647 SBA (MEJ)

MICROSOFT'S NOTICE OF MOTION AND MEMORANDUM IN SUPPORT OF MOTION FOR PARTIAL SUMMARY JUDGMENT OF INVALIDITY OF THE ASSERTED CLAIMS OF THE '900 PATENT (ANTICIPATION)

Date: March 30, 2004
Time: 1:00 p.m.
Judge: Saundra B. Armstrong

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NOTICE OF MOTION

Pursuant to Fed. R. Civ. P. 56(b) and 35 U.S.C. § 102(b), Defendant Microsoft Corporation ("Microsoft") respectfully moves for Partial Summary Judgment of Invalidity of the Asserted Claims of U.S. Patent No. 5,892,900. This motion is noticed for March 30, 2004 at 1:00 p.m. and is based upon this Notice and Memorandum of Points and Authorities, the Declaration of Eric Wesenberg and exhibits thereto. Pursuant to the Court's Standing Order, Microsoft met and conferred with counsel for InterTrust prior to filing this motion. Declaration of Eric L. Wesenberg in Support of Microsoft's Motion for Partial Summary Judgment of Invalidity of the Asserted Claims of the '900 Patent at ¶ 6.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Microsoft moves for summary judgment of invalidity of claims 155, 156, and 157 of U.S. Patent No. 5,892,900 ("the '900 Patent"), pursuant to 35 U.S.C. § 102(b), based on the anticipatory disclosure of the prior art U.S. Patent No. 5,113,518 ("the Durst Patent" or "the Durst reference"). The Durst Patent issued more than one year prior to August 12, 1996, the priority date InterTrust claims for the '900 Patent, and discloses every limitation of claims 155, 156 and 157 of that patent. InterTrust did not cite Durst during the prosecution of the '900 Patent and, therefore, the examiner did not take it into consideration in examining the claims that are challenged herein. Granting this motion will render claims 155, 156 and 157 of the '900 Patent invalid, simplifying this case by disposing of that patent altogether (these are the only '900 claims asserted by InterTrust). This will eliminate the need for the jury to learn and understand (i) the '900 Patent as a whole, (ii) the machine signature programming these claims represent; (iii) the details of over 100 infringement arguments that are unique to these claims, and (iv) product activation technology altogether, as there would be no claims asserted against such product activation technology remaining in the case.

II. LEGAL STANDARD

A. Legal Standard For Summary Judgment

The Federal Circuit has repeatedly emphasized that "[s]ummary judgment is as

appropriate in a patent case as in any other." *See Avia Group International, Inc. v. L.A. Gear California, Inc.*, 853 F.2d 1557, 1561 (Fed. Cir. 1988); *Spectra Corp. v. Lutz*, 839 F.2d 1579, 1581 n. 6, (Fed. Cir. 1988); *Brenner v. United States*, 773 F.2d 306, 307 (Fed. Cir. 1985). "Where no genuine issue of material fact remains and the movant is entitled to judgment as a matter of law, the court should utilize the salutary procedure of Fed. R. Civ. P. 56 to avoid unnecessary expense to the parties and wasteful utilization of the jury process and judicial resources." *Barmag Barmer Maschinenfabrik AG v. Murata Machinery, Ltd.*, 731 F.2d 831, 835 (Fed. Cir. 1984); *Brassica Protection Products LLC v. Sunrise Farms (In re Cruciferous Sprout Litig.*, 301 F.3d 1343, 1346 (Fed. Cir. 2002) ("Summary judgment is appropriate when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.").

Summary judgment is warranted when the moving party has demonstrated that there is no genuine issue as to any material fact and the moving party is entitled to a judgment as a matter of law. *See* Fed. R. Civ. P. 56(c). A fact is material if it

> "might affect the outcome of the suit under the governing law." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). "With respect to whether there is a genuine issue, the court may not simply accept a party's statement that a fact is challenged. (Citations omitted). The party opposing the motion must point to an evidentiary conflict created on the record at least by a counter statement of a fact or facts set forth in detail in an affidavit by a knowledgeable affiant. Mere denials or conclusory statements are insufficient."

Barmag, 731 F.2d at 835-36.

B. Legal Standard For Patent Invalidity

1. Requirements of 35 U.S.C. § 102(b)

A party challenging the validity of a patent claim has the burden of showing invalidity by clear and convincing evidence. *Brassica*, 301 F.3d 1343, 1349 (Fed. Cir. 2002). Microsoft moves for summary judgment of invalidity based on 35 U.S.C. § 102(b), which states that an individual is not entitled to a patent if their claimed invention "was patented or described in a printed publication in this or a foreign country ... more than one year prior to the date of the application for patent in the United States." 35 U.S.C. § 102(b). Summary judgment should be granted where the defendant demonstrates that each element of the challenged claim is disclosed

in a single prior art reference. *See id.*; *Brown v. 3M*, 265 F.3d 1349, 1351 (Fed. Cir. 2001).

The Durst Patent was filed on June 3, 1988 and issued on May 12, 1992. InterTrust claims a priority date of August 12, 1996 for the '900 Patent. The Durst Patent issued more than four years before the purported effective filing date of the '900 Patent and thus indisputably is prior art to the '900 Patent. Also, as will be shown below, its specification discloses all elements of claims 155, 156 and 157 of the '900 Patent. The Durst reference is therefore invalidating prior art under 35 U.S.C. § 102(b), as the purported invention of claims 155-157 "was ... described in a printed publication in this ... country ... more than one year prior to the date of the application for patent in the United States" for the '900 Patent.

2. Presumption of Enablement

In addition to preceding the challenged patent claims by more than one year and disclosing all of the claim elements, an anticipatory reference must enable one of skill in the art to reduce the disclosed invention to practice. *Amgen Inc. v. Hoechst Marion Roussel, Inc.*, 314 F.3d 1313, 1354 (Fed. Cir. 2003). As an issued U.S. patent, the Durst reference carries a presumption that it is enabling, even as to the unclaimed material in its disclosure. *Id.* at 1355 ("We hold that an accused infringer should be ... entitled to have the district court presume the enablement of unclaimed (and claimed) material in a prior art patent defendant asserts against a plaintiff"). It is InterTrust's burden to overcome the presumption of enablement by bringing forward evidence of non-enablement. *Id.*

III. ARGUMENT

A. Overview of the Challenged Claims and the Durst Patent

1. Claims 155, 156 and 157 of the '900 Patent

Claims 155, 156 and 157 of the '900 Patent each claim the same device, differing from each other only with regard to the final element:

	Claim Language
	A virtual distribution environment comprising a first host processing environment comprising
(hardware)	a central processing unit; main memory operatively connected to said central processing unit;

	mass storage operatively connected to said central processing unit and said main memory; said mass storage storing tamper resistant software designed to be loaded into said main memory and executed by said central processing unit,
(software)	said tamper resistant software comprising: machine check programming which derives information from one or more aspects of said host processing environment, one or more storage locations storing said information; integrity programming which causes said machine check programming to derive said information, compares said information to information previously stored in said one or more storage locations, and generates an indication based on the result of said comparison; and programming which takes one or more actions based on the state of said indication; said one or more actions including …
Claim 155	… at least temporarily halting further processing.
Claim 156	… at least temporarily disabling certain functions.
Claim 157	… displaying a message to the user.

The claimed device consists of a virtual distribution environment ("VDE") made up of a host processing environment ("HPE") comprising standard personal computer hardware – a central processing unit ("CPU"), main memory (*e.g.*, RAM) and mass storage (*e.g.*, disk drive) – operationally connected to each other so that each can perform its familiar function. The mass storage stores software capable of being loaded into main memory and executed by the CPU.

The claimed software has three aspects: (i) machine check programming, which derives information from one or more aspects of the HPE and stores it in one more storage locations; (ii) integrity programming, which activates the machine check programming to derive the same information and compares it to the information previously stored, and (iii) programming that takes one or more actions depending on the result of the comparison. As will be shown below, the claim elements make out a programming structure that the Durst reference disclosed more than four years before the '900 Patent application was filed.

Before engaging in an element-by-element comparison, it is useful to look at the claims as a whole. The specification of the '900 Patent provides context and sheds light on the purpose and function of the claimed purported invention. Programming that derives information

about a system, compares it to previously stored, similar information, and takes protective action based on that comparison is well-known in the art – the derived, stored information is often called a "machine signature." The '900 specification contains a discussion of machine signatures that discloses program features corresponding to those of claims 155-57.

The disclosed "machine signature" technique involves two programming modules: the "installation materials" and the "operational materials":

> The installation materials **3470** may be executed by computer **3372** to install the operational materials **3472** onto the computer's hard disk **3376**. The computer **3372** may then execute the operational materials **3472** from its hard disk **3376** to provide software-based protected processing environment **650** and associated software-based tamper resistant barrier **672**.

'900 Patent, 231:25-31.

The installation materials derive a machine signature from the electronic appliance and embed that signature into the operational materials. Then, when the operational materials are initialized on an appliance, they derive the machine signature of the appliance and compare it to the embedded signature:

> Correspondence Between Installed Software and Appliance "Signature".
>
> Another technique that may be used during the installation routine **3470** is to customize the operational materials **3472** by embedding a "machine signature" into the operational materials to establish a correspondence between the installed software on a particular electronic appliance **600** (FIG. **69C**, block **3470(7)**). This technique prevents a software-based PPE **650** from being transferred from one electronic appliance **600** to another (except through the use of the appropriate secure, verified backup mechanism).-
>
> For electronic appliances **600** where it is feasible to do so, the installation procedure **3470** may determine unique information about the electronic appliance **600** (*e.g.*, a "signature" SIG in the sense of a unique value--not necessarily a "digital signature" in the cryptographic sense). Installation routine **3470** embeds the electronic appliance "signature" SIG in the installed operational materials **3472**. Upon initialization, the operational materials **3472** validate the embedded signature value against the actual electronic appliance **600** signature SIG, and may refuse to start if the comparison fails.

'900 Patent, 239:4-25. This language is followed by a description of how various machine parameters can be used to generate signatures. *Id.*, 239:26-240:42. To summarize, the

installation programming embeds a machine signature in the "PPE" ("Protected Processing Environment") software, which embedded signature is validated each time the PPE is initialized by comparing it to the machine signature of the current machine. If the two signatures do not match, reflecting that the PPE software has been transferred to a different, unauthorized machine, the PPE refuses to start.

2. The Durst Reference – Overview

The Durst Patent, titled "Method and System for Preventing Unauthorized Use of Software," discloses the same arrangement, functioning in the same manner, with the same elements. The Durst system also has the same purpose as the claimed '900 Patent's system – to prevent the use of software on an unauthorized computer. The abstract of the Durst Patent succinctly captures its close similarity to the apparatus in claims 155-157 of the '900 Patent:

> A technique is disclosed for preventing a computer program from being used by a computer system other than a designated system. The values of certain characteristics exhibited by the designated computer system first are stored, and then the values of those same characteristics exhibited by the computer system which is intended to use the computer program are measured and compared to the stored values. If the compared values are substantially the same, the computer program may be executed. However, if they are different, the computer system which was intended to use the program is inhibited from executing that program.

And, just as in the '900 Patent, Durst discloses embedding the machine signature in the software itself. Durst, 26:14-21; 27:11-13. The sections that follow show in detail that Durst discloses each and every element of these three '900 Patent claims.

3. The System Environment

The three '900 Patent claims first recite the computing context in which the programming operates. These basic elements are as follows:

Claim Language	A virtual distribution environment comprising

As construed by the Court, this element is simply the sum of the other elements that follow. A "virtual distribution environment" is "defined by the elements of 900.155 [claim 155 of the '900 Patent]; it has no definition independent of those elements." Order Denying

Motion for Partial Summary Judgment and Construing "Mini-*Markman* Claims" ("Markman Order"), July 3, 2003, at 55.[1] Therefore, the Durst reference need not disclose it as such.[2]

Claim Language	**a first host processing environment comprising**

The Court has defined "host processing environment" ("HPE") to mean "capabilities available to a program running on a computer or other device or to the user of a computer or other device," which, "[d]epending on the context ... may be in a single device (*e.g.*, a personal computer) or may be spread among multiple devices (*e.g.*, a network)." Markman Order, at 45. There is a further distinction between a non-secure HPE and a secure HPE, the latter having two additional features: its "processing and/or data is at least in part protected from tampering," and it incorporates "software-based security." *Id.*

The Durst reference discloses "HPEs" of both types. First, the Durst reference discloses that its technology is to be used within a computer system. Durst, Fig. 1, and 5:60-64. Second, the software is "tamper-resistant" ("make[s] tampering more difficult and/or allow[s] detection of tampering," Markman Order, at 51). Durst discloses an embodiment in which the machine signature is itself stored within the software in encrypted form and can thereafter be altered only with a password provided by the manufacturer. In this embodiment, the manufacturer will first confirm that the customer has modified the system hardware and is authorized to receive a new password. Durst, 26:14-21; 27:11-13; 28:6-27. Additionally, the software may be programmed to change the encrypted key after re-recording the machine signature so that each password may be used only once. Durst, 28:3-27. The encryption makes it more difficult to tamper with the machine signature, which is both part of the software's code and central to its authorization functions.

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[1] The same would presumably apply to the VDE element of claims 156 and 157, which employ the term "VDE" in exactly the same fashion as claim 155 and which are otherwise almost identical to claim 155.

[2] Microsoft maintains its argument that "VDE" is the "present invention" identified in the '900 Patent ('900 Patent, 2:19-32), and that the asserted claims are invalid for lack of written description (35 U.S.C. § 112), non-enablement and are not infringed.

Finally, the system described in Durst incorporates "software-based security." The Court has construed "secure" to mean employing "[o]ne or more mechanisms ... that prevent or discourage ... misuse of or interference with information or processes for the purpose of discouraging and/or avoiding harm," which mechanisms may include "tamper resistance" and "authentication," the latter separately defined to mean "[i]dentifying (*e.g.* a ... device ... includ[ing] uniquely identifying." The software contains both the encryption tamper-resistance feature described above, and authentication – programming that creates and uses machine signatures to uniquely identify hardware and thereby prevent unauthorized use of the software. Inasmuch as both of these forms of security are software-based, the Durst reference discloses all the features of a HPE under either definition of that term.

Claim Language	**a central processing unit**

A central processing unit is a standard computer component –in personal computers, this is typically a microprocessor. The Durst Patent discloses a central processing unit. Durst, Fig. 1; 7:26.

Claim Language	**main memory operatively connected to said central processing unit**

The Durst reference discloses a main memory (RAM) connected to the CPU. Durst, Fig. 1; 7:18-20.

Claim Language	**mass storage operatively connected to said central processing unit and said main memory**

The Durst reference discloses mass storage (disk drive) connected to the CPU and main memory. Durst, Fig. 1; 8:15-18 ("... for convenience, the following description is directed to software embodied in the form of a floppy disk, although the specification should be interpreted to include ... other mass storage devices"); 9:3-4 ("Disk drive 116 may take the form of a floppy disk drive or a fixed disk drive, the latter also being referred to as a 'hard' or 'Winchester' disk drive").

Claim Language	said mass storage storing tamper resistant software designed to be loaded into said main memory and executed by said central processing unit, said tamper resistant software comprising

The Durst software is tamper resistant (see discussion of HPE claim element, above). It is, in the standard fashion, loaded from mass storage (*e.g.*, a hard or floppy disk drive) into main memory (*e.g.*, RAM) and executed by the CPU.

4. The Programming Is The Same

The "programming" in the claims at issue has three aspects: "machine check programming," which undertakes the generation and storage of the machine signature based on HPE information; "integrity programming," which activates the machine check programming to re-generate the machine signature and compares the result with the stored signature; and "programming which takes one or more actions" based on the result of the comparison. The Durst Patent discloses all of these.

a. Machine Check Programming

Claim Language	machine check programming which derives information from one or more aspects of said host processing environment, one or more storage locations storing said information

(1) The Meaning of This Element

"Machine check programming" is a module that derives information from one or more aspects of the HPE. The court has defined "derive" to mean "obtain, receive, or arrive at through a process of reasoning or deduction. In the context of computer operations, the 'process of reasoning or deduction' constitutes operations carried out by the computer." Markman Order, at 21. In other words, the computer programming carries out operations on aspects of the computing environment to produce data in some form (the machine signature), which it then stores.

The parties agree that this claim language applies to any derivation of information that represents an attribute of the hardware on which the machine-check programming is running. Throughout its infringement chart, for instance, InterTrust matches this language with the

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following description of an infringing element: "derives from the client computer ... *hardware ID information*." InterTrust's Amended Disclosures of Asserted Claims and Preliminary Infringement Contentions ("IT's Amended Disclosures"), at 18, 20, 34, 36, 38, 40, 42, 44 (emphasis added). In short, the machine signature may be based on hardware information.

The parties also agree that hardware ID information can be based on any parameter of the physical, material part of the computer, such as "one or more of the CDROM device, disk adapter, disk device, display adapter, first drive serial number, MAC address, processor serial, processor type, RAM size, SCSI adapter, PCMCIA controller, audio adapter, and whether the computer is dockable." IT's Amended Disclosures, at 25. Elsewhere in its chart, InterTrust lists an overlapping but somewhat different set of hardware attributes that could serve as the source of the derived information. Microsoft agrees that any hardware parameters will do.

"Machine check programming" *cannot*, however, refer to the derivation of attributes solely from software files stored on the system. InterTrust has taken inconsistent positions on this point, arguing that even a software module that derives its checkable values entirely from such files can constitute "machine check programming." *See, e.g.*, IT's Amended Disclosure, at 23 (accusing Windows File Protection). InterTrust's inconsistency is immaterial to this motion as Durst clearly teaches deriving information from hardware, which satisfies the requirements of § 102(b) anticipation.

(2) Machine Check Programming in the Durst Reference

The Durst Patent discloses machine-check programming that generates a machine signature from hardware parameters and stores it. The software contains a "measure signature" step, Durst, Fig. 14 (and see generally 26:55-27:31), and "the 'signature' of a computer system is intended to refer to the values of certain characteristics exhibited by that system." Durst, 3:45-47. The characteristics can be of two types: "(a) parameters which are designed specifically into individual computer systems (such as the type of processor, the version of operating software, etc.), and (b) parameters which are defined by particular tolerances in the manufacture of the computer system and its peripherals (*e.g.*, the specific rotating speed of a disk drive, which may

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vary within a range of design tolerances, etc.)." *Id.*, 3:60-68. Much of Durst's written description explains how to measure particular hardware characteristics in order to create a machine signature, such as the

> identification of the computer system processor, the clock speed of the computer system clock generator, an identification of the computer system ROM, the wait time, or wait cycles, assigned to the computer system processor for accessing a RAM, the rotary speed of a computer system disk drive, the access speed of that disk drive and the sector interleave value of that disk drive.

Id., 3:50-57; col. 11 – col. 25 (detailed description of measuring techniques). However, "[t]he invention is not intended to be limited solely to these examples; and other characteristics which can be used to distinguish one computer system from another are contemplated." *Id.*, 3:57-60. The signature is "determined in accordance with the subroutines" that extract these various hardware measurements, as described in columns 11-25. Durst, 25:58-60.

The Durst reference also discloses "one or more storage locations storing said information": "After the signature of the computer system has been measured, it is recorded, or stored, in the software integrated with the applications program." *Id.*, 26:14-16; *also* 27:11-13.

b. Integrity Programming

Claim Language	**integrity programming which** **causes said machine check programming to derive said information** **compares said information to information previously stored in said one or more storage locations, and** **generates an indication based on the result of said comparison**

(1) The Meaning of This Element

The integrity programming activates the machine check programming, causing it to derive information based on HPE parameters in the same manner as discussed above, to compare the result to the previously stored result, and to generate an indication reflecting the outcome of that comparison.

An aside is needed regarding the phrase "said information." This language is slightly confusing in that it might be taken to mean that the *results* of the derivation of information must be the same as the previously stored information. Yet the purported invention's functionality depends on comparing the latter result with the machine signature previously stored

to determine if the two are different. Thus, "said information" must mean information derived in the same manner by the same programming, but which may lead to a different value each time it is run. This construction of the term is supported by the specification, '900 Patent, 239:4-25, and by InterTrust's own infringement chart.[3] IT's Amended Disclosures, at 28.

(2) Integrity Programming in the Durst Reference

Just as in the '900 Patent claims, the Durst reference discloses programming which causes the machine signature to be derived, compares it with the stored signature, and produces an indication based on the result. On this point, the language of the Durst Patent is such that a comparison chart is the most efficient way to demonstrate the correspondence between the claim language and the Durst reference:

integrity programming which	"The copy protection procedure inquires initially at 1402 if a signature has been stored previously on the floppy disk. If this inquiry is answered in the affirmative," (26:59-62; Fig. 14)
causes said machine check programming to derive said information,	"then the signature of the computer system with which the applications program is intended to be run is measured." (26:62-64)
compares said information to information previously stored in said one or more storage locations, and	"If the measured signature is the same as the previously determined and stored signature, inquiry 1412 is answered in the affirmative and the applications program is executed, as represented by instruction 1408. However, if inquiry 1412 is answered in the negative, an error message is displayed, thereby indicating that an attempt has been made to run the applications program on an unauthorized computer system." (26:64-27:3)
generates an indication based on the result of said comparison; and	

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[3] Microsoft rejects InterTrust's infringement assertions as to its products and cites InterTrust's infringement position only to show that the parties are in agreement on the relationship between the two different hardware checks that the software performs.

c. Programming That Undertakes an Action Based on the Comparison Result

Claim Language	programming which takes one or more actions based on the state of said indication
Claim 155 only	***said one or more actions including at least temporarily halting further processing.***
Claim 156 only	***said one or more actions including at least temporarily disabling certain functions.***
Claim 157 only	***said one or more actions including displaying a message to the user.***

The action the software takes upon discovering a discrepancy between the previous and the current machine signature is the only respect in which claims 155, 156 and 157 differ from one another. The Durst reference discloses a response to an attempt at unauthorized use of the software that satisfies each of these three different claim elements:[4] "[I]f inquiry 1412 [the check of whether the present and stored signatures match] is answered in the negative, an error message is displayed, thereby indicating that an attempt has been made to run the applications program on an unauthorized computer system. It is appreciated that, under this condition, the applications program cannot be executed." Durst, 26:68-27:5. This clearly meets the limitations of displaying a message to the user and disabling certain functions, respectively.

Regarding "at least temporarily halting processing," the Durst Patent discloses that the consequence of a negative comparison of machine signatures is to halt processing of the protected software. Durst, Figs. 13B, 14, 15; col. 26:68-27:5.

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[4] Microsoft notes that the claim language, read plainly, actually requires that the programming take one or more actions regardless of the outcome of the comparison: "programming *which takes* one or more actions based on the state of said comparison."

IV. CONCLUSION

Because the Durst Patent disclosure has each and every element of the challenged claims Microsoft respectfully requests that the Court declare claims 155, 156 and 157 of U.S. Patent No. 5,892,900 to be invalid as anticipated by a prior patent, pursuant to 35 U.S.C. § 102(b).

Dated: February 23, 2004

BY: _____

WILLIAM L. ANTHONY
ERIC L. WESENBERG
HEIDI L. KEEFE
KENNETH J. HALPERN
SAM O'ROURKE
ORRICK HERRINGTON & SUTCLIFFE, LLP
1000 Marsh Road
Menlo Park, CA 94025
Telephone: (650) 614-7400

STEVEN ALEXANDER
KRISTIN L. CLEVELAND
JAMES E. GERINGER
JOHN D. VANDENBERG
KLARQUIST SPARKMAN, LLP
One World Trade Center, Suite 1600
121 S.W. Salmon Street
Portland, OR 97204
Telephone: (503) 226-7391

Attorneys for Defendant and Counterclaimant
MICROSOFT CORPORATION

Of Counsel:

T. Andrew Culbert, Esq.
One Microsoft Way
Building 8
Redmond, WA 98052-6399
Phone: (425) 882-8080

WILLIAM L. ANTHONY (State Bar No. 106908)
ERIC L. WESENBERG (State Bar No. 139696)
HEIDI L. KEEFE (State Bar No. 178960)
KENNETH J. HALPERN (State Bar No. 187663)
SAM O'ROURKE (State Bar No. 205233)
ORRICK HERRINGTON & SUTCLIFFE, LLP
1000 Marsh Road
Menlo Park, CA 94025
Telephone: (650) 614-7400
Facsimile: (650) 614-7401

KRISTIN L. CLEVELAND (admitted *Pro Hac Vice*)
JAMES E. GERINGER (admitted *Pro Hac Vice*)
JOHN D. VANDENBERG
KLARQUIST SPARKMAN, LLP
One World Trade Center, Suite 1600
121 S.W. Salmon Street
Portland, OR 97204
Telephone: (503) 226-7391
Facsimile: (503) 228-9446

Attorneys for Defendant and Counterclaimant,
MICROSOFT CORPORATION

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

OAKLAND DIVISION

INTERTRUST TECHNOLOGIES CORPORATION, a Delaware corporation,

Plaintiff,

v.

MICROSOFT CORPORATION, a Washington corporation,

Defendant.

AND RELATED CROSS-ACTION.

Case No. C 01-1640 SBA (MEJ)

Consolidated with C 02-0647 SBA (MEJ)

MICROSOFT'S NOTICE OF MOTION, MOTION AND MEMORANDUM IN SUPPORT OF ITS MOTION FOR PARTIAL SUMMARY JUDGMENT OF INVALIDITY OF THE ASSERTED CLAIMS OF THE '181 PATENT (ANTICIPATION)

Date: March 30, 2004
Time: 1:00 p.m.
Judge: Saundra B. Armstrong

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NOTICE OF MOTION

Pursuant to Fed. R. Civ. P. 56(b) and 35 U.S.C. § 102(b), Defendant Microsoft Corporation ("Microsoft") respectfully moves for Partial Summary Judgment of Invalidity of the Asserted Claims of the '181 Patent. This motion is noticed for March 30, 2004 at 1:00 p.m. and is based upon this Notice and Memorandum of Points and Authorities, the Declaration of Sam O'Rourke and exhibits thereto. Pursuant to the Court's Standing Order, Microsoft met and conferred with counsel for InterTrust prior to filing this motion. Declaration of Eric L. Wesenberg In Support of Microsoft's Motion For Partial Summary Judgment of Invalidity of the Asserted Claims of the '900 Patent at ¶ 6.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Microsoft moves for summary judgment of invalidity of all asserted claims of U.S. Patent No. 6,112,181 (the "'181 patent"),[1] pursuant to 35 U.S.C. § 102(b), based on the anticipatory disclosure of the prior art International Publication Number WO96/27155, published under the Patent Cooperation Treaty on September 6, 1996 (the "PCT" publication).[2] The PCT publication was published more that one year prior to the application for the '181 patent and discloses every limitation of each asserted claim of the '181 patent. InterTrust did not cite the PCT publication during the prosecution of the '181 patent and, therefore, the examiner did not take it into consideration as prior art in issuing the claims that are asserted against Microsoft.

Granting Microsoft's summary judgment motion will render the asserted claims of the '181 patent invalid, simplifying this case by eliminating fourteen claims and the need for a jury to learn and understand the '181 patent technology. It would also eliminate the need to

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[1] The '181 patent is attached as Exhibit A to the Declaration of Sam O'Rourke.

[2] The "PCT" publication is an application filed by InterTrust and is almost identical to InterTrust's U.S. Patent Application No. 08/388,107 (the "'107 application") filed on February 13, 1995, and later abandoned. The '107 application, often referred to as the "Big Book," spawned the majority of the InterTrust patents asserted against Microsoft in the present litigation. Many of the asserted patents are either continuations of the '107 application, or incorporate its specification by reference. The PCT publication (WO96/27155) is attached as Exhibit B to the Declaration of Sam O'Rourke.

consider Microsoft's "System Management Server (SMS)" product, versions 2.0 and later, as the only claims asserted against this product are from the '181 patent.

II. LEGAL STANDARD

A. Legal Standard For Summary Judgment

The Federal Circuit has repeatedly emphasized that "[s]ummary judgment is as appropriate in a patent case as it is in any other case." *Desper Prods. v. QSound Lab.*, 157 F.3d 1325, 1332 (Fed. Cir. 1998) (citing *C.R. Bard, Inc. v. Advanced Cardiovascular Systems, Inc.*, 911 F.2d 670, 672 (Fed. Cir. 1990); *See Avia Group International, Inc. v. L.A. Gear California, Inc.*, 853 F.2d 1557, 1561 (Fed. Cir. 1988); *Spectra Corp. v. Lutz*, 839 F.2d 1579, 1581 n. 6 (Fed. Cir. 1988); *Brenner v. United States*, 773 F.2d 306, 307 (Fed. Cir. 1985). "Summary judgment is appropriate when there are no issues of material fact and the moving party is entitled to judgment as a matter of law." *Liquid Dynamics Corp. v. Vaughan Co., Inc.*, 2004 U.S. App. LEXIS 1065, *13 (Fed. Cir. Jan. 23, 2004); *See* Fed. R. Civ. P. 56(c). A fact is material if it "might affect the outcome of the suit under the governing law." *Anderson v. Liberty Lobby, Inc.* 477 U.S. 242, 248 (1986).

"With respect to whether there is a genuine issue, the court may not simply accept a party's statement that a fact is challenged. (citations omitted) The party opposing the motion must point to an evidentiary conflict created on the record at least by a counter statement of a fact or facts set forth in detail in an affidavit by a knowledgeable affiant. Mere denials or conclusory statements are insufficient." *Barmag Barmer Maschinenfabrik AG v. Murata Machinery, Ltd.*, 731 F.2d at 835-36 (Fed. Cir. 1984).

B. Legal Standard For Patent Invalidity

An individual is only entitled to a patent for an invention that is novel at the time the invention was made. Thus, a defendant in a patent infringement action is entitled to summary judgment of invalidity if it establishes by clear and convincing evidence that the applicant failed to meet the requirements of patentability. *WMS Gaming Inc. v. International Game Tech.*, 184 F.3d 1339, 1355 (Fed. Cir. 1999). Microsoft moves for summary judgment of invalidity based on 35 U.S.C. § 102(b), which states that an individual is not entitled to a patent if their claimed

invention "was patented or described in a printed publication in this or a foreign country . . . more than one year prior to the date of the application for patent in the United States." Summary judgment should be granted where the defendant demonstrates that each element of each challenged claim is disclosed in a single prior art reference. *See Brown v. 3M*, 265 F.3d 1349, 1351 (Fed. Cir. 2001).

As stated above, Microsoft's motion is based upon the September 6, 1996 publication of PCT publication WO96/27155. InterTrust's '181 patent was filed on November 6, 1997. The PCT publication, therefore, was published a year and two months prior to the filing date of the '181 patent and, as will be shown below, discloses all elements of the asserted claims of the '181 patent. Thus, the PCT publication is invalidating prior art under 35 U.S.C. § 102(b), as the purported invention of the asserted claims of the '181 patent was "described in a printed publication in . . . a foreign country . . . more than one year prior to the date of the application for" the '181 patent in the United States.

III. ARGUMENT

The asserted claims of InterTrust's '181 patent recite a method for sending selected digital information to selected recipients, using "rules and controls" to govern the use of that information. The recipients are permitted to use the digital information in a controlled environment that enforces the associated "rules and controls."

As shown below, the PCT publication discloses all of the elements with parallel functionality as those recited in the asserted claims of the '181 patent.[3]

A. The PCT Publication Anticipates Claim 91 Of The '181 Patent

Claim 91 of the '181 patent is the narrowest asserted independent claim. Demonstration of how the PCT publication anticipates claim 91 will, therefore, simplify the

[3] The asserted claims of the '181 patent are claims 48, 59, 61, 62, 63, 70, 72, 75, 89, 91, 104, 114, 117, and 131.

analysis of how the PCT publication anticipates the broader asserted independent claim 48.[4]

Claim 91 states as follows:

> 91. A method for securely narrowcasting selected digital information to specified recipients including:
>
> (a) receiving selected digital information in a secure container at a receiving appliance remote from a sending appliance, the receiving appliance having a secure node, the receiving appliance being associated with a receiving entity;
>
> (i) the digital information having been selected at least in part based on the digital information's membership in a first class,
>
> (ii) the first class membership having been determined at least in part using rights management information;
>
> (b) the receiving entity having been selected at least in part based on said receiving entity's membership in a second class,
>
> (i) the second class membership having been determined at least in part on the basis of information derived from the recipient entity's creation, use of, or interaction with rights management information;
>
> (c) receiving at the receiving appliance rules and controls in a secure container,
>
> (i) the rules and controls having been associated with the selected digital information; and
>
> (d) using at the receiving appliance the selected digital information in accordance with the rules and controls,
>
> (i) the rules and controls being enforced by the receiving appliance secure node.

The sections that follow demonstrate, on an element-by-element basis, that the PCT publication anticipates claim 91.

1. **Claim 91 - Preamble**

Claim Language	**A method for securely narrowcasting selected digital information to specified recipients including:**

[4] Dependent claims that reference claim 91 are addressed individually in the sections following the claim 91 analysis. Dependent claims that reference claim 48 follow the analysis of that claim.

A preamble limits the claimed invention if it "recites essential structure or steps, or if it is 'necessary to give life, meaning, and vitality' to the claim." *Smithkline Beecham Corp. v. Excel Pharms., Inc.*, 2004 U.S. App. LEXIS 1323, *13 (Fed. Cir. Jan. 29, 2004) (citing *Catalina Mktg. Int'l v. Coolsavings*, 289 F.3d 801, 808 (Fed. Cir. 2002)). In this case, the preamble of claim 91 recites the step of "narrowcasting" which is necessary to give life, meaning, and vitality to claim 91. This functionality is not otherwise recited in the body of claim 91, yet it is the subject of the alleged invention of the '181 patent. InterTrust chose to use both the preamble and the body of claim 91 to define the subject matter of the claimed invention. When limitations in the body of the claim rely upon and derive antecedent basis from the preamble, then the preamble may act as a necessary component of the claimed invention. *See, e.g., Electro Sci. Indus. v. Dynamic Details, Inc.*, 307 F.3d 1343, 1348 (Fed. Cir. 2002); *Rapoport v. Dement*, 254 F.3d 1053, 1059 (Fed. Cir. 2001). Here, the preamble of claim 91 is limiting.

The preamble recites a method for narrowcasting selected digital information to specified recipients. The term "narrowcast" has an ordinary and customary meaning, which is "[t]o transmit data to selected individuals. Contrast with *broadcast*." Alan Freedman, *Computer Desktop Encyclopedia, 9th Edition*, McGraw Hill (2001) (hereafter "Computer Desktop Encyclopedia") at 651.[5] Although the '181 specification fails to define "narrowcast," it uses the term consistent with its ordinary meaning:

> This display may be a "narrowcasting" to a customer based upon his matching priorities, available digital information resources (*e.g.*, repository, property, etc.) and associated, available classification information.

'181 Patent 8:15-19.

The PCT publication discloses the narrowcasting of digital information. For example, it provides for the administering of an SAT examination to students at various schools or testing sites. PCT at 913. The example discloses narrowcasting functionality, in that the SAT

[5] The referenced pages of the Computer Desktop Encyclopedia are attached as Exhibit C to the Declaration of Sam O'Rourke.

test to be administered (data) is transmitted to the particular schools or "test sites" (selected individuals) administering the exam. *Id.* Specifically, the PCT publication states:

> A scheduled SAT examination for high school seniors is prepared by the Educational Testing Service. The examination is placed in a VDE container for scheduled release on November 15, 1994 at 1:00 PM Eastern Standard time. The SAT prepares one copy of the container for each school or other location which will conduct the examination. The school or other location ("test site") will be provided with a distributed examination container securely containing the VDE identification for the "administration" electronic appliance and/or test administrator at the test site (such as, a testing organization) and a budget enabling, for example, the creation of 200 test VDE content containers.

Id.[6]

Thus, the PCT publication discloses the narrowcasting aspect of the preamble of claim 91 of the '181 patent.

2. Claim 91 – Element (a)

Claim Language	**(a) receiving selected digital information in a secure container at a receiving appliance remote from a sending appliance, the receiving appliance having a secure node, the receiving appliance being associated with a receiving entity;**

This element can be separated into six unique requirements, each of which is disclosed by the PCT publication.

a. The PCT publication discloses a receiving appliance that receives information from a remote sending appliance

Claim 91, element (a) requires a receiving appliance to receive information from a remote sending appliance. The term "appliance" is referenced in the specification of the '181 patent as follows:

> Such electronic interactions supported by the Distributed Commerce Utility may, for example, entail the broadest range of **appliances** and distribution media, non-limiting examples of which include networks and other communications channels, **consumer appliances, computers, convergent devices such as WebTV, and optical media such as CD-ROM and DVD in all their current and future forms**.

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[6] Additional examples from the PCT publication include law firms using "VDE" to selectively distribute documents, including filing briefs electronically with the courts; VDE trial subscriptions for a newspaper; and automated tax collection, such as sales tax, using VDE. PCT at pp. 792-800, 610, and 690-91. The SAT example is simply illustrative.

'181 Patent 35:25-31 (emphasis in quoted text has been added unless otherwise noted). Although the scope of the term "appliance" has not been determined by the Court, any construction would certainly encompass the disclosure of the PCT publication, which states:

> Electronic appliance 600 may be practically any kind of electrical or electronic device, such as:
>
> a computer
> a T.V. "set top" control box
> a pager
> a telephone
> a sound system
> a video reproduction system
> a video game player
> a "smart" credit card

PCT at 180. The PCT publication discloses a system whereby the appliance at each school or testing site designated to administer the SAT test (receiving appliances) electronically receives an SAT test from an Educational Testing Service appliance (sending appliance). PCT at 913. The PCT publication specifically discloses a receiving appliance as follows:

> The examination is placed in a VDE container for scheduled release . . . The SAT prepares one copy of the container for each school or other location which will conduct the examination. The school or other location ("test site") will be provided with a distributed examination container securely containing the VDE identification for the **'administration' electronic appliance . . .**

Id. A sending appliance is also disclosed. The above-quoted passage states that a "VDE container" is used for distribution. Creation of VDE protected objects (*i.e.* the "VDE container" containing the SAT test) requires the use of a VDE appliance. PCT at 180, 189.

b. <u>The PCT publication discloses a sending appliance located "remotely" from the receiving appliance</u>

Element (a) requires the sending appliance to be located "remotely" from the receiving appliance. One ordinary and customary meaning of the term "remote" in computer science is:

> Located at a distance from another computer that is accessible by cables or other communications links: *a remote terminal.*[7]

Dictionary.com Computer Science Dictionary (2004).[8] Use of the term "remote" in the '181 specification is consistent with this ordinary meaning:

> distribution using VDE that may package both the electronic content and control information into the same VDE container, and/or **may involve the delivery to an end-user site of different pieces of the same VDE managed property from plural separate remote locations** and/or in plural separate VDE content containers and/or employing plural different delivery means;

'181 Patent 26:64–27:3.

The PCT publication discloses a system where an:

> **Appliance 600 may communicate with the outside world** through any of the connections/devices normally used within an electronic appliance. The connections/devices shown along the bottom of the drawing are examples: **a "modem" 618 or other telecommunications link; . . . a "cable" 628 connecting the appliance with a "network"**

PCT at 180-81. The fact that the Educational Testing Service is at a different location than the multiple testing sites, coupled with the statement that appliances may be connected by modem, cable or other telecommunications link, is a disclosure that the Educational Testing Service (sending appliance) is located remotely from the testing sites (receiving appliances).

c. <u>The PCT publication discloses the transmission of "digital information"</u>

Claim element (a) requires the information sent and received to be "digital information." The PCT publication discloses an example of a system for the electronic distribution and administration of an SAT exam where data is transferred in digital form, as the test is placed in a VDE container. PCT at 913. All data in a computer is by necessity in digital form.

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[7] *See also* "remote node" – "A remote user or workstation. Access to the company LAN is made via POTS or ISDN modem to a connection at the remote access server". Computer Desktop Encyclopedia at 836.

[8] The referenced pages of the Dictionary.com Computer Science Dictionary (2004) are attached as Exhibit D to the Declaration of Sam O'Rourke.

d. The PCT publication discloses the transmission of digital information in a "secure container"

Element (a) requires digital information to be transferred in a "secure container." "Secure container" has been construed by the Court to mean, "A container (defined *supra*) that is secure (define *supra*)." The Court construed "contain" to mean:

> To have within or hold. In the context of an element contained within a data structure (*e.g.* a secure container), the contained element may be either directly within the container or the container may hold a reference indicating where the element may be found.

Order Denying Motion for Partial Summary Judgment and Construing "Mini-*Markman* Claims" ("Markman Order"), July 3, 2003 (Docket #338), p.33

The Court has construed "secure" to mean:

> One or more mechanisms are employed that (whether alone or in conjunction with one or more other mechanisms) prevent or discourage misuse of or interference with information or processes, or that detect misuse of or interference with information or processes for the purpose of discouraging and/or avoiding harm. Such mechanisms may include concealment, tamper resistance (defined *infra*), authentication (*i.e.* identifying (*e.g.*, a person, device, organization, document, file, etc.)), and access control. Concealment means that it is difficult to read information (*e.g.*, programs may be encrypted). Tamper resistance and authentication are defined separately. Access control means that access to information or processes is limited on the basis of authorization. Security is not absolute.
>
> "Securely" means: "In a secure (defined *supra*) manner.

Markman Order at p. 48.

The PCT publication states that:

> The school or other location ("test site") will be provided with a **distributed examination container securely containing the VDE identification for the "administration" electronic appliance and/or test administrator at the test site . . . and a budget enabling, for example, the creation of 200 VDE content containers.**

PCT at 913. It further states that:

> . . . proper use of **VDE** 100 for the testing process **can prevent improper access to test contents** prior to testing . . .

PCT at 916. Thus, the VDE container is an example of a "secure" "container" as those terms have been construed by the Court.

e. **The PCT publication discloses a "secure node" at the receiving appliance**

Element (a) recites a "secure node" at the receiving appliance. The Court's construction of "secure" is recited above. A node has the following ordinary meaning in computer science:

> In communications, a node is a network junction or connection point. For example, a personal computer in a LAN is a node. A terminal connected to a minicomputer or mainframe is a node.

Computer Desktop Encyclopedia at 674. Thus, a "secure node" includes a computer or terminal that prevents, discourages or detects misuse or interference with processes or information for the purpose of avoiding harm. Although the '181 specification does not define the term "secure node," it uses the term consistently with the ordinary meaning of the term:

> Referring again to FIG. 47A, **each customer appliance 2052 may have a VDE secure node installation 2054 incorporating a protected processing environment 154**, as described in 'Ginter et al', and messaging services software **2058** that manages communications with other appliances.

'181 Patent 56:18-22.[9]

The PCT publication discloses the user appliance as a "secure" node. In the case of the SAT testing example, the user appliance is the "'administration' electronic appliance" used for receiving the "VDE container" containing the examination and rules and controls governing its use. PCT at 913. As stated in the PCT publication, each such electronic appliance (node) may include a "Secure Processing Unit" or "SPU" (hence, "secure" node):

> **Each VDE node or other electronic appliance** 600 in the preferred embodiment **may include one or more SPUs 500 [Secure Processing Units]. SPUs 500 may be used to perform all secure processing for VDE 100**. For example, SPU 500 is used for decrypting (or otherwise unsecuring) VDE projected objects 300. . . . SPU 500 may also perform **secure data management processes** including governing usage of, auditing of, and where appropriate, payment for VDE objects 300.

PCT at 189-190. It also states:

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[9] "Ginter et al." refers to U.S. Pat. No. 5,892,900, issued Apr. 6, 1999, for "Systems And Methods For Secure Transaction Management And Electronic Rights Protection," which is also asserted in the present action.

> . . . an SPU 500 may be implemented as a single integrated circuit "chip" 505 to provide **a secure processing environment in which confidential and/or commercially valuable information can be safely processed, encrypted and/or decrypted.**

PCT at 190. Thus, the PCT publication discloses a "secure node" – the "'administration' electronic appliance" containing an SPU.

f. The PCT publication discloses a system where the receiving appliance is associated with a receiving entity

The final requirement of element (a) is the "receiving appliance being associated with a receiving entity." The PCT publication discloses a system where each test site is associated with an "administration" electronic appliance:

> The SAT prepares one copy of the container for each school or **other location which will conduct the examination. The school or other location ("test site") will be provided with a distributed examination container securely containing the VDE identification for the "administration" electronic appliance and/or test administrator at the test site (such as a testing organization)** and a budget enabling, for example, the creation of 200 test VDE content containers.

PCT at 913. For a number or reasons, including the need to delineate the number of tests to be distributed to test takers at each particular site, each test site is associated with an "'administration' electronic appliance."

For the foregoing reasons, the PCT publication discloses all requirements of element (a) of claim 91.

3. Claim 91 – Element (a)(i)

Claim Language	**(i) the digital information having been selected at least in part based on the digital information's membership in a first class,**

This limitation requires the digital information referred to in element (a) to be selected at least in part based upon its membership in a first class. For example, the '181 specification provides:

> Of particular importance is the notion of classes of content . . . For example, the present inventions can make use of . . . topical identification, for example, such as information represented in typical library subject and/or author and/or catalog and/or keyword search and retrieval information systems . . . any information

> descriptive of an available resource (which may include any information, product, and/or service, whether available in electronic and/or physical forms) such as: the quality of a digital product as evaluated and ranked and/or otherwise specified by one or more third parties and/or independent third parties . . . .

'181 Patent 14:35-55.

As discussed above, the PCT publication discloses a system, which by way of example, can be used to electronically distribute an SAT test to selected testing sites. In the testing example, the distributed information is a particular examination to be given on a specific date at a specific time – "November 15, 1994 at 1:00 PM Eastern Standard time." PCT at 913. Thus, the specific electronic SAT test (digital information) sent to the designated testing sites has been selected at least in part based on the test's membership in a first class (the particular SAT test to be released to testing sites on November 15, 1994 at 1:00 PM Eastern Standard time). The PCT publication provides several other examples of testing scenarios where the tests (digital information) are selected based upon their membership in a particular class:

> VDE assisted testing may, of course, be employed for many different applications including secure identification of individuals for security/authentication purposes, for employment (*e.g.* applying for jobs) applications, and for a full range of evaluation testing. For example, **an airline pilot**, or **a truck, train, or bus driver** might take a test immediately prior to departure or during travel, with the test evaluating alertness to test for fatigue, drug use, etc. A certain test may have a different order and/or combination of test activities each time, or each group of times, the test is taken.

PCT at 916. In each of these circumstances, the digital information or content of the particular test will be classified based upon its appropriateness to the test takers, the particular venue, date and time of examination, and potentially a host of other factors.

Accordingly, the PCT publication discloses a system where the digital information is selected at least in part based on the digital information's membership in a first class.

4. **Claim 91 – Element (a)(ii)**

Claim Language	**(ii) the first class membership having been determined at least in part using rights management information;**

As recited in element (a)(ii), membership in the "first class" is determined at least in part based upon rights management information. According to the specification of the '181

patent, "[r]ights management information may include electronic rules and/or their consequences." '181 Patent 11:23-25. Referring again to the testing scenario disclosed in the PCT publication, the particular test to be distributed (first class membership) is determined at least in part using rights management information, including any one or more of the following electronic rules and /or consequences, 1) the subject matter of the test, 2) the order of the test questions, 3) which test questions are presented, and/or 4) timing-related variables such as the precise starting, duration and stopping times of the examination. PCT at 916-17.

These examples disclose the use of "rights management information" to determine the digital information's membership in a first class.

5. **Claim 91 – Element (b)**

Claim Language	**(b) the receiving entity having been selected at least in part based on said receiving entity's membership in a second class,**

Element (b) requires the receiving entity to be selected at least in part based on its membership in a second class. The PCT publication's testing example discloses the distribution of a particular SAT examination to a selected class of test sites:

> A scheduled SAT examination for high school seniors is prepared by the Educational Testing Service. The examination is placed in a VDE container for **scheduled release on November 15, 1994 at 1:00 PM Eastern Standard time. The SAT prepares one copy of the container for each school or other location which will conduct the examination. The school or other location ("test site") will be provided with a distributed examination container securely containing the VDE identification for the "administration" electronic appliance and/or test administrator at the test site . . .**

PCT at 913. Thus, this passage discloses the requirements of claim 91, element (b) - a particular SAT test is distributed to each test site (receiving entity) that will be administering the SAT on November 15, 1994 at 1:00 PM Eastern Standard time (receiving entity's membership in a second class).

6. **Claim 91 – Element (b)(i)**

Claim Language	**(i) the second class membership having been determined at least in part on the basis of information derived from the recipient entity's creation, use of, or interaction with rights management information;**

As explained above in the analysis of element (b), selected test sites are members of a second class – the class of test sites administering the SAT examination at a particular time and date. Element (b)(i) requires the second class membership to be determined at least in part on the basis of information derived from the recipient entity's creation, use of, or interaction with rights management information. The specification of the '181 patent provides numerous examples of types of "rights management information" that may be used for classification purposes:

> Rights management information may be directly or indirectly inputted to the matching, classification and/or selection process. . . The following are examples of such information that may be provided based, for example, on rules and consequences . . . user questionnaires . . . audit trail related information . . . aggregated usage data . . . information measuring or otherwise related to institutional behavior; information measuring or otherwise related to institutional preferences; information measuring or otherwise related to institutional culture . . .

'181 Patent 18:65–19:39.

As required by this claim element, the membership in the class of test sites is determined on the basis of information derived from the test site's interaction with rights management information. For example, sites are determined to be members of a class receiving a particular SAT test based upon whether or not that site is scheduled or permitted to administer the exam at a designated date and time. PCT at 913. Sites may also be selected based on content of an examination, *i.e.* whether it is an SAT test (where the site might be a high school) or a test designed for "an airline pilot, or a truck, train, or bus driver," where the test site might be the appropriate workplace. PCT at 916. In addition, membership in the second class is determined from the use of VDE identifications, which also is rights management information. The PCT publication states:

> The school or other location ("test site") will be provided with a distributed examination container securely containing the **VDE identification for the "administration" electronic appliance and/or test administrator at the test site** (such as a testing organization) . . .

PCT at 913.

Thus, the PCT publication discloses a process whereby the second class membership (administering test sites) is determined at least in part on the basis of information derived from the recipient entity's creation, use of, or interaction with rights management information (test type, date, time, etc.).

7. Claim 91 – Element (c)

Claim Language	**(c) receiving at the receiving appliance rules and controls in a secure container,**

Element (c) requires rules and controls to be received in a secure container at the receiving appliance. The term "controls" has been construed by the Court to mean:

> "Information and/or programming controlling operations on or use of resources (*e.g.*, content) including (a) permitted, required, or prevented operations, (b) the nature or extent of such operations, or (c) the consequences of such operations."

Markman Order at p. 36. The term "rules" has not been construed, but in the "mini" Markman proceedings, InterTrust argued that "rules and controls" are equated with "control information" in the Big Book ('107) application, and that the terms "rule" and "control" are "synonymous." InterTrust's Opening Claim Construction Brief at 17-19 (Docket #225).

The PCT publication discloses process in which rules and controls are packaged in a secure VDE container. For example:

> The examination is placed in a **VDE container** for **scheduled release on November 15, 1994 at 1:00 PM Eastern Standard time**. The SAT prepares one copy of the container for each school or other location which will conduct the examination. The school or other location ("test site") will be provided with a **distributed examination container securely containing the VDE identification for the "administration" electronic appliance** and/or test administrator at the test site (such as, a testing organization) and **a budget** enabling, for example, the creation of 200 test VDE content containers. Each container created at the test site may have **a permissions record** containing secure identification information for each electronic appliance 600, on the test site's network, that will be used by a test taker, as well as, for example, an identification for the student who will take the test.

PCT at 913. These passages disclose receiving at the receiving appliance (receipt by test sites) rules and controls (release time, identification requirements, budget) in a secure container ("VDE" or "examination" container), as recited in element (c) of claim 91.

8. **Claim 91 – Element (c)(i)**

Claim Language	**(i) the rules and controls having been associated with the selected digital information; and**

Element (c)(i) calls for rules and controls received by the receiving entity to be associated with selected digital information. As explained in the previous section, the PCT publication discloses a process in which an SAT test is packaged into a "secure container" also containing rules and controls (release time, identification requirements, budget) governing access and distribution of the examination. PCT at 913. The fact that these rules and controls are packaged with, and govern the use of, the test contained in the same secure VDE container, demonstrates that the rules and controls contemplated in the PCT publication are "associated with the selected digital information." Accordingly, the PCT publication discloses claim 91 element (c)(i).

9. **Claim 91 – Element (d)**

Claim Language	**(d) using at the receiving appliance the selected digital information in accordance with the rules and controls,**

Element (d) of Claim 91 requires the receiving appliance to use selected digital information in accordance with "rules and controls." As stated above in section III(A)(8), test sites receive a VDE container encapsulating rules and controls including, for example, a budget. This budget sets forth the number of "VDE content containers" that may be produced and distributed to the test-taking students:

> The school or other location ("test site") will be provided with a **distributed examination container** securely containing the VDE identification for the "administration" electronic appliance and/or test administrator at the test site (such as, a testing organization) and **a budget enabling, for example, the creation of 200 test VDE content containers.**

PCT at 913. The "'administration' electronic appliance and/or test administrator at the test site" then creates the number of "test VDE content containers" permitted by the "budget." *Id.*

Thus, the PCT publication discloses a receiving appliance (test site) that uses (creates VDE content containers) the selected digital information (particular test distributed by

the Educational Testing Service) in accordance with the rules and controls (*e.g.* a budget), as recited in element (d) of claim 91.

10. **Claim 91 – Element (d)(i)**

Claim Language	**(i) the rules and controls being enforced by the receiving appliance secure node.**

The final element of claim 91 requires the secure node of the receiving appliance to enforce the rules and controls associated with the digital information. As explained in Section III(A)(2), the PCT publication discloses an "'administration' electronic appliance" used for receiving the "VDE container" containing the examination and rules governing its use. PCT at 913. This electronic appliance enforces the rules and controls associated with the SAT test, as detailed in the PCT publication's lengthy discussion elaborating on the attributes of such "VDE Electronic Appliance[s]," which contain Secure Processing Units. PCT at 180-194. The PCT publication states:

> **Each VDE node or other electronic appliance** 600 in the preferred embodiment may **include one or more SPUs** 500. **SPUs 500 may be used to perform all secure processing for VDE** 100. . . . It is also used for **managing encrypted and/or otherwise secured communication** . . . SPU 500 may also perform secure data management including **governing usage of . . . VDE objects** . . .

PCT at 189-190.

Thus, the PCT publication discloses a method where rules and controls (i.e. release time, identification requirements, budget. etc.) are enforced by the receiving appliance (administration electronic appliance) secure node (having a SPU).

B. **The PCT Publication Anticipates All Asserted Claims Dependent Upon Claim 91 of the '181 Patent.**

Claims 104, 114 and 131 are dependent upon claim 91. Claim 117 is dependent upon claim 114, which in turn, is dependent upon claim 91. As detailed *supra* Sections III(A)(1)-(10), all the elements of claim 91 are present and disclosed in the PCT publication. The PCT publication, as demonstrated in the following sections, also anticipates all claims that depend upon claim 91.

1. Dependent Claim 104

Claim Language	**104. The method of claim 91 wherein said received selected digital information includes entertainment information.**

As explained in Section III(A)(2) with regard to element (a) of claim 91, the PCT publication discloses a process in which a server transfers "selected digital information" to a receiving appliance. Dependent claim 104 calls for this "selected digital information" to include "entertainment information." The ordinary meaning of "entertainment" is "something diverting or engaging." *Merriam-Webster's Collegiate Dictionary, Tenth Edition* (1999).[10] The '181 specification fails to define or indicate what the term "entertainment information" refers to and, therefore, does not contradict the ordinary meaning of the term.

The PCT publication contemplates the delivery of digital entertainment information to end users. It discloses that a sending appliance may distribute all varieties of digital information, which are listed in a "repository content catalog." PCT at 839. Such digital information may include "lists of publications, software, games, movies, etc." *Id.* Software, games and movies fit within even the narrowest construction of the term "entertainment information." Moreover, the PCT publication discloses that any type of electronic information may be distributed in VDE containers:

> Figure 20 shows an example of a VDE content object structure 880. Generally, content objects 880 include or provide information content. This 'content' may be any sort of electronic information. For example, **content may include computer software, movies, books, music, . . . multimedia information, virtual reality information . . .**

PCT at 407-408. Various examples of information recited in this passage could be included in the category of "entertainment information." Categories such as movies, books and music most certainly fit any definition of entertainment information. Therefore, the PCT publication anticipates claim 104, as it discloses all the elements of claim 91, as well as end user receipt of "entertainment information."

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[10] *Merriam-Webster's Collegiate Dictionary, Tenth Edition* (1999) attached as Exhibit E to the Declaration of Sam O'Rourke.

2. Dependent Claim 114

Claim Language	**114. The method of claim 91 wherein said rules and controls specify at least one clearinghouse acceptable to rightsholders.**

Claim 114 calls for rules and controls, as detailed *supra* Section IIII(A)(7) with regard to element (c) of claim 91, specifying "at least one clearinghouse acceptable to rightsholders." The term "clearinghouse" has been construed by the Court to mean:

> A provider of financial and/or administrative services for a number of entities; or an entity responsible for collection, maintenance, and/or distribution of materials, information, license, etc.

Markman Order at p. 21. The PCT publication discloses a number of different varieties of clearinghouses:

> . . . a VDE repository may perform audit information **clearinghouse** services on behalf of VDE creators or other participants (*e.g.* distributors, redistributors, client administrators, etc.) for usage information reported by VDE users. **Such services may include analyzing such usage information, creating reports, collecting payments, etc.**

PCT at 817. It also provides for clearinghouses that are acceptable to rightsholders:

> A "full service" VDE repository may be very **attractive to both providers and users of VDE managed content. Providers of VDE managed content may desire to place their content in a location that is well known to users, offers credit, and/or performs audit services for them.**

Id. Accordingly, the PCT publication anticipates claim 114 of the '181 patent, as it discloses all elements of the claim.

3. Dependent Claim 117

Claim Language	**117. The method of claim 114 wherein said at least one acceptable clearinghouse is a rights and permissions clearinghouse.**

As set forth in Section III(B)(2) *supra*, the PCT publication discloses a number of different varieties of clearinghouse. Among them are clearinghouses which provide rights and permissions services:

> The **clearinghouse** system 3302B is comprised of a user/author registration system 3338, template libraries 3340; **a control structure library** 3342; **a disbursement system** 3344; **an authorization system** 3346 comprised of a financial system 3348 and a **content system** 3350 . . .

PCT at 821-22. Features such as "a control structure library," "a disbursement system," "an authorization system" and "a content system" are all components of a clearinghouse that distributes, authorizes and governs the use of content. This describes the functionality of a rights and permissions clearinghouse. Accordingly, because the PCT publication discloses all elements of claims 91 and 114 (upon which claim 117 depends), as well as the additional element of claim 117, the PCT publication anticipates claim 117 of the '181 patent.

4. Dependent Claim 131

Claim Language	**131. The method of claim 91 wherein said receiving appliance is a personal computer.**

In addition to all the elements of claim 91, claim 131 requires that the receiving appliance, discussed *supra* Section III(A)(2), be a personal computer. One ordinary meaning of a "personal computer" is:

> Synonymous with "microcomputer," "desktop computer," and "laptop computer," it is a computer that serves one user in the office or home.

Computer Desktop Encyclopedia at 751. The PCT publication specifically discloses a system where the receiving appliance is a computer:

> Electronic appliance 600 may be practically any kind of electrical or electronic device, such as:
>
> o **a computer**

PCT at 180. Moreover, the PCT publication specifically discloses that the electronic appliance may be a "personal" computer, stating "if appliance 600 is a **personal computer** . . ." PCT at 181. Thus, in addition to reading on all elements of claim 91 of the '181 patent, the PCT publication discloses a system where the receiving appliance is a personal computer, thereby anticipating claim 131.

C. The PCT Publication Anticipates Claim 48 Of The '181 Patent

Claim 48 of the '181 patent is very similar to claim 91.[11] The substantive difference between these claims is that claim 91 requires a "secure container," whereas claim 48 omits this requirement. The effect of this omission is to render claim 48 broader than claim 91. This omission also renders claim 48 more easily anticipated, because the anticipating reference need not disclose the use of a "secure container."

Practically, therefore, because claim 91 is anticipated by the PCT publication, claim 48 is as well. Rather than repeat the anticipation analysis set forth in Section III(A) *supra* for claim 48, the following is a chart setting forth the anticipation analyses that is applicable to each element of this claim:

48. A method for narrowcasting selected digital information to specified recipients, including: **[Section III(A)(1)]**
(a) at a receiving appliance, receiving selected digital information from a sending appliance remote from the receiving appliance, the receiving appliance having a secure node and being associated with a specified recipient; **[Section III(A)(2)]**
(i) the digital information having been selected at least in part based on the digital information's membership in a first class, **[Section III(A)(3)]** wherein the first class membership was determined at least in part using rights management information; and **[Section III(A)(4)]**
(ii) the specified recipient having been selected at least in part based on membership in a second class, **[Section III(A)(5)]** wherein the second class membership was determined at least in part on the basis of information derived from the specified recipient's creation, use of, or interaction with rights management information; and **[Section III(A)(6)]**
(b) the specified recipient using the receiving appliance to access the received selected digital information in accordance with rules and controls, **[Section III(A)(9)]** associated with the selected digital information, **[Section III(A)(8)]** the rules and controls being enforced by the receiving appliance secure node. **[Section III(A)(10)]**

D. The PCT Publication Anticipates All Asserted Claims Dependent Upon Claim 48 Of The '181 Patent

Claims 59, 61, 63, 70, 72 and 89 are dependent upon claim 48. Claim 62 is dependent upon claim 61 and claim 75 is dependent upon claim 72. Thus both are also ultimately

[11] Non-substantively, claim 48 simply combines several of the elements recited in claim 91 into single elements.

dependent upon claim 48. As detailed in the chart *supra* Section III(C), all the elements of claim 48 are present and disclosed in the PCT publication. The PCT publication, as demonstrated in the following sections, also anticipates all claims that depend upon claim 48.

1. **Dependent Claim 59**

Claim Language	**59. The method of claim 48 wherein said received selected digital information is at least in part event information.**

Claim 59 requires that selected digital information be at least in part "event information." The ordinary meaning of the term "event" is "something that happens: occurrence." *Merriam-Webster's Collegiate Dictionary, Tenth Edition* (1999). Thus, "event information" is simply information about something that happens. Although the '181 patent fails to define the term "event information," the plain meaning of the term is consistent with its use in the '181 specification:

> Various ticket agencies 4506(1)-4506(n) may send **information about specific events** 4512(1)-4512(n) and/or information about agency services 4514(1)-4514(n) to the matching and classification utility 900. In another example, **an event promoter may send event information** directly to the matching and classification utility 900.

'181 Patent 80:52-57.

The testing example of the PCT publication discloses a test site receiving, in a secure container, information regarding an SAT test. This SAT testing information includes information regarding the date and time of the test:

> A **scheduled** SAT examination for high school seniors is prepared by the Educational Testing Service. The examination is placed in a VDE container **for scheduled release on November 15, 1994 at 1:00 PM Eastern Standard time**. The SAT prepares one copy of the container for each school or other location which will conduct the examination.

PCT at 913. The PCT publication also discloses other timing related variables:

> Electronic testing employing VDE 100 may also ensure that timing related variables of testing (for example **precise starting, duration, and stopping times**) can be reliably managed.

PCT at 916. Thus, the received selected digital information (VDE container encapsulating the exam and rules and controls) is at least in part event information (information regarding the release date, timing and schedule of the SAT examination), thereby anticipating claim 59.

2. **Dependent Claim 61**

Claim Language	**61. The method of claim 48 wherein said received selected digital information is at least in part entertainment information.**

Claim 61 is anticipated because the PCT publication discloses all elements of claim 48 (as demonstrated in Section III(C)), as well as the additional element recited in this claim (as demonstrated in Section III(B)(1)).

3. **Dependent Claim 62**

Claim Language	**62. The method of claim 61 wherein said entertainment information is at least in part music information.**

As demonstrated in Section III(D)(2), the PCT publication anticipates claim 61. Claim 62 depends upon claim 61 and recites the additional element that the "entertainment information" of claim 61 is at least in part "music information." The PCT publication specifically discloses that the digital information received by the receiving appliance can include "music" information:

> Figure 20 shows an example of a VDE content object structure 880. Generally, content objects 880 include or provide information content. This "content" may be any sort of electronic information. For example, **content may include . . . music . . .**

PCT at 407-08. Accordingly, claim 62 is anticipated by the PCT publication.

4. **Dependent Claim 63**

Claim Language	**63. The method of claim 48 wherein said received selected digital information is at least in part executable software.**

Claim 63, which depends on claim 48, recites the additional element requiring the selected digital information to be at least in part "executable software." The Court has construed the term "executable programming" to mean "A computer program that can run, directly or through interpretation." *See* Order at p. 22 (Docket No. 338). The PCT publication discloses the transmission and reception of digital information that may include "executable software," stating:

> Figure 20 shows an example of a VDE content object structure 880. Generally, content objects 880 include or provide information content. This "content" may

be any sort of electronic information. For example, **content may include computer software . . .**

PCT at 407-408. Thus, the PCT publication anticipates claim 63 of the '181 patent.

5. Dependent Claim 70

Claim Language	**70. The method of claim 48 wherein said rules and controls at least in part govern usage audit record creation.**

Claim 63, which depends on claim 48, recites the additional element wherein the rules and controls "at least in part govern usage audit record creation." The PCT publication discloses rules and controls that at least in part govern usage audit record creation in its SAT testing scenario:

> . . . proper use of VDE 100 for the testing process can prevent improper access to test contents prior to testing and ensure that test taking is properly **audited** and authenticated, that is **which person took which test, at which time, on which electronic appliance, at which location**.

PCT at 916. Thus, the PCT publication anticipates claim 70 of the '181 patent.

6. Dependent Claim 72

Claim Language	**72. The method of claim 48 wherein said rules and controls in part specifying at least one clearinghouse acceptable to rightsholders.**

Claim 72 is anticipated because the PCT publication discloses all elements of claim 48 (as demonstrated in Section III(C)), as well as the additional element recited in this claim (as demonstrated in Section III(B)(2)).

7. Dependent Claim 75

Claim Language	**75. The method of claim 72 wherein said at least one acceptable clearinghouse is a rights and permissions clearinghouse.**

Claim 75 is anticipated because the PCT publication discloses all elements of claim 72 (as explained directly above in Section III(D)(6)), all elements of claim 48 (as demonstrated in Section III(C)), as well as the additional element recited in this claim (as demonstrated in Section III(B)(3)).

8. **Dependent Claim 89**

Claim Language	**89. The method of claim 48 wherein said receiving appliance is a personal computer.**

Claim 89 is anticipated because the PCT publication discloses all elements of claim 48 (as demonstrated in Section III(C)), as well as the additional element recited in this claim (as demonstrated in Section III(B)(4)).

IV. CONCLUSION

For the forgoing reasons, Microsoft respectfully requests that the Court declare U.S. Patent No. 6,112,181 invalid as anticipated under 35 U.S.C. § 102(b) by the PCT publication published under International Publication Number WO 96/27155.

Dated: February 23, 2004

By: _____

WILLIAM L. ANTHONY
ERIC L. WESENBERG
HEIDI L. KEEFE
KENNETH J. HALPERN
SAM O'ROURKE
ORRICK HERRINGTON & SUTCLIFFE, LLP
1000 Marsh Road
Menlo Park, CA 94025
Telephone: (650) 614-7400

STEVEN ALEXANDER
KRISTIN L. CLEVELAND
JAMES E. GERINGER
JOHN D. VANDENBERG
KLARQUIST SPARKMAN, LLP
One World Trade Center, Suite 1600
121 S.W. Salmon Street
Portland, OR 97204
Telephone: (503) 226-7391

Attorneys for Defendant and Counterclaimant
MICROSOFT CORPORATION

Of Counsel:

T. Andrew Culbert, Esq.
One Microsoft Way
Building 8
Redmond, WA 98052-6399
Phone: 425-882-8080

ORIGINAL

WILLIAM L. ANTHONY (State Bar No. 106908)
ERIC L. WESENBERG (State Bar No. 139696)
HEIDI L. KEEFE (State Bar No. 178960)
SAM O'ROURKE (State Bar No. 205233)
ORRICK, HERRINGTON & SUTCLIFFE, LLP
1000 Marsh Road
Menlo Park, CA 94025
Telephone: (650) 614-7400
Facsimile: (650) 614-7401

STEVEN ALEXANDER (admitted *Pro Hac Vice*)
KRISTIN L. CLEVELAND (admitted *Pro Hac Vice*)
JAMES E. GERINGER (admitted *Pro Hac Vice*)
JOHN D. VANDENBERG
KLARQUIST SPARKMAN, LLP
One World Trade Center, Suite 1600
121 S.W. Salmon Street
Portland, OR 97204
Telephone: (503) 226-7391
Facsimile: (503) 228-9446

Attorneys for Defendant and Counterclaimant,
MICROSOFT CORPORATION

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

OAKLAND DIVISION

INTERTRUST TECHNOLOGIES CORPORATION, a Delaware corporation,

Plaintiff,

v.

MICROSOFT CORPORATION, a Washington corporation,

Defendant.

AND RELATED CROSS-ACTION.

Case No. C 01-1640 SBA (MEJ)
Consolidated with C 02-0647 SBA (MEJ)

JOINT STIPULATION OF DISMISSAL WITH PREJUDICE

WHEREAS the Parties have resolved their dispute;

IT IS HEREBY STIPULATED AND AGREED by and between Plaintiff InterTrust Technologies Corporation and Defendant and Counterclaimant Microsoft Corporation by and through their respective undersigned counsel, and pursuant to Federal Rules of Civil Procedure 41(a)(1)(ii) and 41(c), that the above-captioned matter be dismissed in its entirety with prejudice, with each side bearing its own costs and attorney's fees.

Dated: 5/5/04

ERIC L. WESENBERG
ORRICK, HERRINGTON & SUTCLIFFE LLP

Eric L. Wesenberg
Attorneys for Defendant and Counterclaimant
MICROSOFT CORPORATION

Dated: 4/29/04

MICHAEL H. PAGE
KEKER &VAN NEST LLP

Michael H. Page
Attorneys for Plaintiff and Counterdefendant
INTERTRUST TECHNOLOGIES CORP.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: 5-6-04

Hon. Saundra Brown Armstrong
United States District Judge

DECLARATION OF SERVICE VIA ELECTRONIC MAIL AND U.S. MAIL

I am more than eighteen years old and not a party to this action. My place of employment and business address is 1000 Marsh Road, Menlo Park, California 94025.

On May 10, 2004, I served:

JOINT STIPULATION OF DISMISSAL WITH PREJUDICE

By transmitting a copy of the above-listed document(s) in PDF form via electronic mail Michael H. Page at **mhp@kvn.com**, Doug Derwin at **doug.derwin@derwin.com, dderwin@intertrust.com;** James E. Geringer at **james.geringer@klarquist.com** and Michael Lyons at **mlyons@morganlewis.com** and also by placing true and correct copies of the above documents in an envelope addressed to:

John W. Keker, Esq.
Michael H. Page, Esq.
KEKER & VAN NEST, LLP
710 Sansome Street
San Francisco, CA 94111
Tel. No. 415-391-5400
Fax No. 415-397-7188
Email: jwk@kvn.com
Email: mhp@kvn.com

Attorneys for Plaintiff, INTERTRUST TECHNOLOGIES CORPORATION

Doug Derwin, Esq.
DERWIN & SIEGEL
3820 Alpine Road
Portola Valley, CA 94028
Tel. No: 650-529-8700
Fax No: 650-529-8799
E-mail: doug.derwin@derwin.com
E-mail: dderwin@intertrust.com
Attorneys for Plaintiff, INTERTRUST TECHNOLOGIES CORPORATION

Michael Lyons, Esq.
MORGAN LEWIS & BOCKIUS LLP
3300 Hillview Avenue
Palo Alto, CA 94304
Tel. No. 650-493-4935
Fax No. 650-493-5556
Email: mlyons@morganlewis.com

Attorneys for Plaintiff InterTrust TECHNOLOGIES CORPORATION

John D. Vandenberg, Esq.
Michael Lyons, Esq.
MORGAN LEWIS & BOCKIUS LLP
3300 Hillview Avenue
Palo Alto, CA 94304
Tel. No: 503-226-7391
Fax No: 503-228-9446
Email: john.vandenberg@klarquist.com
Email: james.geringer@klarquist.com

Attorneys for Defendant and Counterclaimant, MICROSOFT CORPORATION

and sealing the envelope, affixing adequate first-class postage and depositing it in the U.S. mail at Menlo Park, California.

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I declare under penalty of perjury that the foregoing is true and correct.

ANNA FREDDIE

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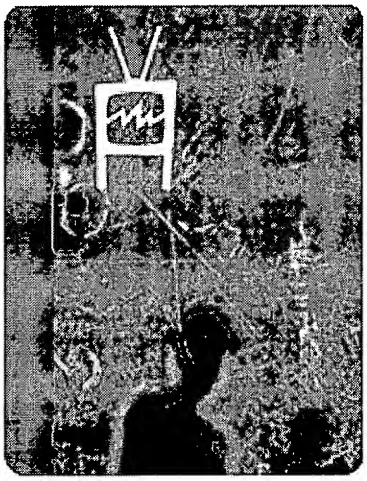

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Press Release

Microsoft and InterTrust Settle Outstanding Litigation and License Intellectual Property

Redmond, WA, and Santa Clara, CA, April 12, 2004 - Microsoft Corporation and InterTrust Technologies Corporation announced today that Microsoft has taken a comprehensive license to InterTrust's patent portfolio for a one-time payment of $440 million.

The agreement resolves all outstanding litigation between the two companies. In addition, InterTrust receives rights under Microsoft patents to design and publish InterTrust reference technology specifications related to DRM (Digital Rights Management) and security. Microsoft and InterTrust believe this agreement will accelerate adoption and development of DRM technologies.

"Licensing InterTrust's patent portfolio reaffirms Microsoft's commitment to the importance of intellectual property rights as well as our commitment to our end-user customers to stand behind our products in these emerging technology areas," said Marshall Phelps, deputy general counsel and corporate vice president of intellectual property at Microsoft. "One of our goals with this and our broader IP licensing program is to provide peace of mind for our customers and partners by letting them know that patent licensing is our responsibility. Doing an effective job at managing the IP in our software differentiates our products and builds confidence that Microsoft has the rights necessary to build innovative solutions."
"Today's announcement validates InterTrust's intellectual property portfolio as seminal to advancing DRM and trusted computing in the marketplace," said Talal Shamoon, chief executive officer of InterTrust. "InterTrust will continue to help drive the adoption of these important technologies through our inventions, licensing programs and reference technologies, and we expect to develop a thriving licensing business going forward."
The settlement agreement ensures that Microsoft's end user customers can use Microsoft products and services as they are intended to be used without requiring a license from InterTrust. In addition, software developers who build products using Microsoft platform technology will not require an InterTrust license for normal and expected uses of the Microsoft technology.
However, developers, including system integrators, may need a license from InterTrust for other uses of Microsoft technology, including cases in which Microsoft technology is combined with third party technology. Information about licensing terms, questions about whether a license is needed, and documents needed to license InterTrust technology can be found in licensing. Third-party software developers can also obtain information from Microsoft at www.microsoft.com/presspass.
"DRM solutions are essential to secure valuable personal, business, and commercial content in a massively connected world," said Will Poole, senior vice president of the Windows client business at Microsoft. "With our existing technology and IP portfolio combined with our new agreement with InterTrust, Microsoft is committed to working with the broader industry to accelerate the promotion of DRM standards and solutions. Microsoft and our partners are delivering the most powerful and flexible rights management solutions in the industry, while assuring customers that we have the IP necessary to secure our products."

secure our products."

About InterTrust Technologies Corporation
InterTrust is an independent, privately held company located in Silicon Valley. The Company was founded in 1990 and was publicly traded from 1999 to early 2003 when it merged with a joint venture owned by Sony, Philips, and Stephens Bank. The Company holds 30 U.S. patents and has over 100 patent applications pending worldwide. InterTrust's patent portfolio covers software and hardware techniques that can be implemented in a broad range of products that use DRM and trusted computing technologies, including computer operating systems, digital media platforms, web services, and enterprise infrastructure. InterTrust has research, engineering, and IP groups focused on developing and monetizing next-generation technologies and inventions.

About Microsoft Inc.
Founded in 1975, Microsoft (Nasdaq "MSFT") is the worldwide leader in software, services, and solutions that help people and businesses realize their full potential.

# # #

Media Contacts
For more information, press only:
Robin Buckley, Buckley Kaldenbach for InterTrust, (703) 533-9805, robin@buckleykaldenbach.com
Isabel Kaldenbach, Buckley Kaldenbach for InterTrust, (703) 979-3076, isabel@buckleykaldenbach.com
Leigh Anne Varney, Varney Business Communications for InterTrust, (415) 387-7250, la@varneybusiness.com
Mark L. Martin, Waggener Edstrom for Microsoft, (425) 638-7000, markm@wagged.com
Microsoft Rapid Response Team, Waggener Edstrom, (503) 443-7070, rrt@wagged.com
Note to editors: Additional information on InterTrust and Microsoft can be found at the following websites. For InterTrust, please visit other pages of this website. For Microsoft, please visit the Microsoft web page at http://www.microsoft.com/presspass/ on Microsoft's corporate information pages. Web links, telephone numbers, and titles were correct at time of publication, but may since have changed. For additional assistance, journalists and analysts may contact Microsoft's and/or InterTrust's Rapid Response Teams respectively or other appropriate contacts listed at http://www.microsoft.com/presspass/contactpr.asp.

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